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P., M.

The Roman Catholic Diocese of Rochester  
St. Mary's Catholic Church

Total Fees Paid: \$0.00

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State of New York

MONROE COUNTY CLERK'S OFFICE  
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ADAM J BELLO

MONROE COUNTY CLERK



SUPREME COURT OF THE STATE OF NEW YORK  
 COUNTY OF MONROE

-----X

M.P.,

Plaintiff,

**COMPLAINT**

-against-

THE ROMAN CATHOLIC DIOCESE OF  
 ROCHESTER; a/k/a THE MOST REV. SALVATORE  
 R. MATANO, as Bishop and Corporate Sole of the  
 DIOCESE OF ROCHESTER; and ST. MARY'S  
 CATHOLIC CHURCH,

Index No. \_\_\_\_\_

Defendants.

-----X

TO THE SUPREME COURT OF THE STATE OF NEW YORK:

Plaintiff, M.P., by and through undersigned counsel, respectfully shows to this Court and  
 alleges as follows:

**Introduction**

This is a revival action brought pursuant to the New York Child Victims Act, CPLR § 214-  
 g. The Plaintiff, when he was a minor, was sexually assaulted by, a Priest of the Diocese of  
 Rochester, Eugene Emo, who was assigned to St. Mary's parish.

**Parties, Jurisdiction and Venue**

1. Plaintiff, M.P., is a citizen and resident of the State of Arkansas. Plaintiff brings  
 this Complaint using his initials because of the sensitive nature of the allegations of child sexual  
 abuse in the Complaint, which is a matter of the utmost intimacy. Plaintiff fears embarrassment  
 and further psychological damage if his identity as a victim of child sexual abuse were to become  
 publicly known. His identity will be made known to Defendant, at the latest, upon service of the  
 Summons and Complaint.

2. Defendant, Diocese of Rochester, and Salvatore R. Matano, Bishop and Corporate Sole of the Diocese of Rochester (hereafter, the “Diocese” or the “Diocese of Rochester”), is a religious institution and organization with principal offices located at 1150 Buffalo Road, Rochester, NY 14624. The Diocese of Rochester controls all Catholic religious, pastoral and educational functions in the counties of Monroe, Livingston, Wayne, Ontario, Seneca, Cayuga, Yates, Tompkins, Schuyler, Tioga, Chemung and Steuben, New York. The Diocese operates and controls approximately 88 parishes and 18 schools. The Diocese is a citizen and resident of the State of New York. Defendant controls all Catholic parishes and schools within its jurisdiction, including St. Mary’s Catholic Church where the sexual abuse occurred.

3. Defendant, St. Mary’s Catholic Church, is a Catholic parish and church located in Dansville, New York. The parish has a school, known as the St. Mary’s School. (Hereafter the parish and school are collectively referred to as “St. Mary’s” or the “Church”). At all relevant times, St. Mary’s was owned, controlled and operated by the Diocese of Rochester.

4. This Court has subject matter jurisdiction of this action pursuant to Article VI of the New York Constitution.

5. Personal jurisdiction lies over Defendants Diocese and the Church as they are present and domiciled in the State of New York.

6. Venue of this action lies in Monroe County as a substantial part of the events or omissions giving rise to the claim occurred in Monroe County or one of the Defendants resides in Monroe County.

**Facts of Sexual Abuse**

7. Eugene Emo was a Priest of the Diocese of Rochester assigned to St. Mary's from approximately 1968-1973.

8. Plaintiff is from a devout Catholic family. When he was approximately 10 years old, in 5<sup>th</sup> grade, he was an altar boy and student at St. Mary's. There he was befriended and groomed by Father Emo.

9. Father Emo brought Plaintiff in the sacristy and rectory of St. Mary's and to a cabin he owned. There he sexually assaulted Plaintiff. The sexual assaults occurred numerous times over a three-year period.

10. The sexual abuse of Plaintiff by Father Emo included the fondling of Plaintiff's penis. Additionally, Father Emo would rub his own penis against Plaintiff's body.

11. Father Emo repeatedly forced Plaintiff and other children at the parish to wrestle him. While wrestling, Father Emo would fondle Plaintiff's genitals with his hand and rub his penis on Plaintiff. Plaintiff repeatedly asked Father Emo to stop this behavior, but Emo refused.

12. Father Emo would often serve beer and liquor to Plaintiff prior to the sexual abuses.

13. Upon information and belief, the church and Diocese were aware that Father Emo was inappropriately wrestling with children and taking children alone to his cabin.

14. Upon information and belief, Father Emo was at all relevant times a serial sexual predator who sexually abused multiple boys over a period of decades.

15. Upon information and belief, Father Emo sodomized another child at St. Mary's parish and this behavior was reported to the parish.

16. Prior to his assignment at St. Mary's, Father Emo was assigned as a priest at St. Cecilia Church in Irondequoit, New York. During that time Father Emo sexually abused several

children of the parish. Father Emo fondled those children's genitals while wrestling. Upon information and belief, this behavior was reported to the Diocese of Rochester, leading to Father Emo being transferred from St. Cecilia to St. Mary's, where he sexually abused Plaintiff.

17. In 1993, Father Emo was removed by the Diocese from his position at St. Januaris parish in Naples, New York, and was transferred to Holy Trinity parish following allegations of inappropriate behavior with children.

18. In 1996, Father Emo was accused of sexually abusing children at Holy Trinity and was again transferred, this time to Blessed Sacrament parish.

19. In 1996, Father Emo was arrested and charged with second degree sexual abuse following an additional allegation of abuse.

20. The Diocese of Rochester demonstrated a repeated pattern of covering up Emo's acts of sexual abuse and quietly transferring Father Emo to another parish rather than reporting Father Emo to the police or disclosing his sexual misconduct to parishioners.

21. At all relevant times the Diocese and the Church knew or in the exercise of reasonable care should have known that Father Emo had a propensity for the conduct which caused injury to Plaintiff, in particular, that he had a propensity to engage in the sexual abuse of children.

22. At all relevant times, it was reasonably foreseeable to the Diocese and the Church that Father Emo was unfit, dangerous and a threat to the health, safety and welfare of the minors entrusted to his counsel, care and/or protection.

23. With such actual or constructive knowledge, the Diocese and the Church provided Father Emo unfettered access to Plaintiff and gave him the opportunity to commit foreseeable acts of child sexual abuse or assault.

**Archdiocese's Concealment of Acts of Sexual Abuse by Priests**

24. The Bishop of the Diocese at all relevant times knew that Priests of the Diocese, under his supervision and control, were grooming and sexually molesting children with whom the Priests would have contact in their ministry and pastoral functions. At all relevant times, the Bishop knew that this was a widespread, ubiquitous and systemic problem in the Diocese, involving many Priests and numerous victims.

25. In or about October 2018, the Diocese released a list of 35 of its clergy, acknowledging what it deemed credible allegations of child sexual abuse that had been made against the listed clergymen. These clergymen are acknowledged to have abused children within the Diocese over decades. The list includes Father Emo.

26. Despite receiving credible allegations of child sexual abuse against clergy, the Diocese acted to conceal these allegations in an effort to avoid scandal and accountability.

27. This concealment was in accordance with a policy of the Diocese, as agent, and the Holy See, as principal. In 1922, the Holy See released a confidential document to its Bishops and other officials of Catholic organizations regarding the handling of cases of solicitation of sex in the confessional. This document mandated a specific procedure for Holy See's agents, including the Bishop of the Diocese, to use when a cleric abused children using the confessional. This document required strict secrecy. The 1922 document showed that the Holy See and its agents were fully aware that there was a systemic problem of clergy sexually molesting children using the confessional.

28. In 1962, the Holy See released the confidential document, *Instruction on The Manner of Proceeding in Cases of Solicitation* (The Vatican Press, 1962) (hereinafter referred to as "*Crimen Sollicitationis*"). The heading of the document states, "From the Supreme and Holy Congregation of the Holy Office To All Patriarchs, Archbishops, Bishops and Other Diocesan

Ordinaries ‘Even of the Oriental Rite,’” and contains specific instructions regarding the handling of child sex abuse by clergy. According to the document itself, it is an “instruction, ordering upon those to whom it pertains to keep and observe it in the minutest detail.” *Crimen Sollicitationis* at paragraph 24.

29. The 1962 document reinforced that the Holy See and its agents to whom the documents was directed had knowledge that there was a systemic problem of Catholic clergy sexually molesting children using the confessional.

30. At the same time, the Holy See was involved in the formation of secret facilities in the United States where sexually offending clergy would be sent for short periods of time. In 1962-63, Father Gerald Fitzgerald reported to the Pope on the problem of abuse of children by clergy and expressed concerns if these priests were returned to active duty.

31. Father Fitzgerald’s reports were kept secret under the Holy See’s standing policy to avoid scandal at all costs. It’s recommendation was ignored, however, and instead the Holy See made a choice to return known offending priests to active duty. At this point, it is clear that the Holy See and its agents, including the Diocese, knew they had a widespread problem of clergy sexually molesting minors, and they participated in the creation and the operation of facilities in the United States where sexually offending clergy could be sent before they were moved to another parish to work and potentially abuse again.

32. The Holy See’s policy of secrecy under penalty of immediate removal from the organization (excommunication) for all involved in an accusation of child sexual abuse created a shroud of secrecy insulating Priests from consequence. Through this policy and others, the Holy See and its agents, including the Diocese, knowingly allowed, permitted and encouraged child sex abuse by the Diocese’s Priests.

33. The Holy See mandates secrecy for all those involved, including agents and itself, in handling allegations of sexual abuse. Penalties for child sexual abuse include an order to move offending priests to other locations once they have been determined to be “delinquent.” In response to allegations, the document mandates that supplementary penalties include: “As often as, in the prudent judgment of the Ordinary, it seems necessary for the amendment of the delinquent, for the removal of the near occasion [of soliciting in the future], or for the prevention of scandal or reparation for it, there should be added a prescription for a prohibition of remaining in a certain place.” *Crimen Sollicitations* at paragraph 64. Under this policy of secrecy and transfers or reassignments, all involved are threatened with excommunication and, thus, damnation, if they do not comply.

34. The policy of secrecy and the severest of penalties for its violation were reiterated in documents issued by officials of the Holy See for the benefit of its agents, including the Bishop of the Diocese, in 1988 and 2001.

35. The policies and practices of the Diocese designed to conceal sexual abuse by clergy and protect it from scandal and liability included the following:

- (a) transfer and reassignment of clergy known or suspected to abuse minors to deflect attention from reports or allegations of child sexual abuse;
- (b) concealing from parishioners and even other clergy that a priest reassigned to their parish posed a danger of sexual abuse to children;
- (c) failing to alert parishioners from the Priest’s prior assignments that their children were exposed to a known or suspected child molester;
- (d) failing to report sexual abuse to criminal authorities; and
- (e) otherwise protecting and fostering the interests of abusive clergy to the



detriment of the victims and the community, for the purpose of avoiding scandal and public scrutiny.

36. Indeed, the policy of secrecy and lack of consequences for the sexual abuse of children was perceived as a perquisite by clergy sex abusers. The Holy See and Diocese believed it to be perceived as a perquisite, which it condoned and used to its advantage in controlling Priests.

37. Plaintiff was in a zone of foreseeable harm as a child engaged in Catholic activities in close proximity to or with Catholic clergy.

38. The Diocese was in the best position to protect against the risk of harm as it knew of the systemic problem and foreseeable proclivities of its Priests to sexually abuse children.

39. At all relevant times, while the Archdiocese had special and unique knowledge of the risk of child sexual abuse by its Priests, such Priests who would prey on children were outside the reasonable contemplation of the Catholic community and families who trusted Priests to have access to their children.

40. Plaintiff and his parents had no opportunity to protect Plaintiff against a danger that was solely within the knowledge of the Diocese.

41. Upon information and belief, the Diocese engaged in a plan and scheme pursuant to its secrecy policies and practices to avoid discovery of Father Emo's child sexual abuse and the Diocese's wrongful conduct which facilitated the sexual abuse of young children.

#### **Nature of Conduct Alleged**

42. This action alleges physical, psychological and emotional injuries suffered as a result of conduct which would constitute a sexual offense on a minor as defined in Article 130 of the New York Penal Law, including without limitation, conduct constituting rape (consisting of sexual intercourse) (N.Y. Penal Law §§ 130.25 – 130.35); criminal sexual act (consisting of oral

or anal sexual conduct) (N.Y. Penal Law §§ 130.40 – 130.53), and/or sexual abuse (consisting of sexual contact) (N.Y. Penal Law §§ 130.55 – 130.77).

43. The limitation of liability set forth in CPLR Art. 16 is not applicable to the claim of personal injury alleged herein, by reason of one or more of the exemptions provided in CPLR § 1602, including without limitation, that Defendant acted with reckless disregard for the safety of others, including Plaintiff, or knowingly or intentionally, in concert with Father Emo, to retain Father Emo in ministry with unfettered access to children.

**COUNT I**  
**NEGLIGENCE**  
(against St. Mary's)

44. Plaintiff repeats and realleges Paragraphs 1 through 43 above.

45. At all material times, St. Mary's and Plaintiff were in a special relationship of church – parishioner, in which St. Mary's owed Plaintiff a duty of reasonable care.

46. At all material times, St. Mary's and Father Emo were in a special relationship of employer – employee, in which St. Mary's owed a duty to control the acts and conduct of Father Emo to prevent foreseeable harm.

47. The Church owed a duty to Plaintiff to use reasonable care to protect the safety, care, well-being and health of the Plaintiff while he was under the care, custody or in the presence of St. Mary's. The Church's duties encompassed the retention and supervision of Father Emo and otherwise providing a safe environment for Plaintiff.

48. St. Mary's breached these duties by failing to protect the minor M.P. from sexual assault and lewd and lascivious acts committed by an agent and employee of the Church.

49. At all relevant times, the Church created an environment which fostered child sexual abuse against children it had a duty to protect, including Plaintiff.

50. At all relevant times, the Church had inadequate policies and procedures to protect children it was entrusted to care for and protect, including Plaintiff.

51. As a direct and proximate result of Immaculate Conception's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

52. The Church's acts and conduct shows a reckless or willful disregard for the safety and well-being of M.P.

WHEREFORE, Plaintiff demands judgment against the Church for compensatory damages, punitive damages, costs and such other and further relief as this Court deems proper.

**COUNT II**  
**NEGLIGENCE**  
(against the Diocese)

53. Plaintiff repeats and realleges Paragraphs 1 through 43 above.

54. At all material times the Diocese, as principal, and the Church, as agent, were in an agency relationship, such that the Church acted on the Diocese's behalf, in accordance with the Diocese's instructions and directions on all matters, including those relating to clergy personnel. The acts and omissions of the Church were subject to the Diocese's plenary control, and the Church consented to act subject to the Diocese's control.

55. At all material times, the Diocese and Plaintiff were in a special relationship of church – parishioner, in which the Diocese owed Plaintiff a duty of reasonable care.

56. At all material times, the Diocese and Father Emo were in a special relationship of employer – employee, in which the Diocese owed a duty to control the acts and conduct of Father Emo to prevent foreseeable harm.

57. The Diocese owed a duty to Plaintiff to use reasonable care to protect the safety,

care, well-being and health of the Plaintiff while he was under the care, custody or in the presence of the Diocese. The Diocese's duties encompassed the retention and supervision of Father Emo and otherwise providing a safe environment for Plaintiff.

58. The Diocese breached these duties by failing to protect the minor M.P. from sexual assault and lewd and lascivious acts committed by an agent and employee of the Diocese.

59. At all relevant times, the Diocese created an environment which fostered child sexual abuse against children it had a duty to protect, including Plaintiff.

60. At all relevant times, the Diocese had inadequate policies and procedures to protect children it was entrusted to care for and protect, including Plaintiff.

61. As a direct and proximate result of the Diocese's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.


62. The Diocese's acts and conduct shows a reckless or willful disregard for the safety and well-being of M.P.

WHEREFORE, Plaintiff demands judgment against the Diocese for compensatory damages, punitive damages, costs and such other and further relief as this Court deems proper.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a jury trial in this action.

Dated: New York, New York  
August 28, 2019

By:   
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